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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,643	04/06/2001	Brian J. Roberts	3345-2240	5505

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EXAMINER

CHERUBIN, YVESTE GILBERTE

ART UNIT	PAPER NUMBER
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3713

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/828,643

Applicant(s)

ROBERTS, BRIAN J. 

Examiner

Yveste G. Cherubin

Art Unit

3713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED September 16, 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 19 August 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-37.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

JOHN M. NOTALING, II
PRIMARY EXAMINER



Continuation of 2. NOTE: The examiner thanks the Applicant for notifying her of the typographical error in regards to the reference to Burr. As the Applicant noticed, the references to Gerow in view of Koza and further in view of Burr were used to reject claims 10, 11 and 37.

In reference to claim 1, Applicant submits that the combination of Gerow and Koza is improper because there is no particular suggestion from the cited reference, or an affidavit of official notice. In response, the Examiner submits that a test for obviousness is not whether the features of the reference may be bodily incorporated into the other to produce the claimed subject matter but simply what the references make obvious to one of ordinary skill in the art. In reBozek, 163 USPQ 545 (CCPA 1969). Further, it's not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining references is what the references as a whole would have suggested to one of ordinary skill in the art. In this case, both cited references are in the field of endeavor of the claimed invention and would have been obvious to combine. In response to claim 6, on 6:60-65, Gerow is cited to teach "stopping the increment - via stopping the game - upon dispensing the jackpot card and reducing the jackpot prize to a predetermined lower amount - via restarting the game with a selected predetermined amount from \$0-\$500 - upon delivery of the match indicating signal, 7:44-50. In regard to claims 10-11, 37 the computer supervisory means is being read as being a computer management means within the central computer which is taught by Burr, at 3:1-17, 4:53-65, and capable of communicating information data between the subsystem and the central computer, 3:1-17, 4:53-56, 16, 10-27. In regards to claims 8-9, Applicant submits that there is no suggestion of the motivation in the provided references. See the arguments above in reference to claim 1. In reference to claim 13, Applicant submits that Gerow fails to disclose "starting to accumulate a new prize pool upon the detection of the dispensing of an additional ticket after the detection of said winner. the Examiner disagrees because although Gerow discloses restarting the jackpot after each jackpot card has been redeemed, further below, at 7: 12-18, Gerow discloses associating a time or current value stamp on the jackpot card preventing players from holding to the card and waiting for the jackpot to puff up. So, with the associated time stamp on the jackpot card, whatever increment comes after the jackpot card was dispensed would go toward a new pool since whether the player redeems the jackpot card on the day that it was dispensed or later the money associated with it at the time it was dispensed would not change. Accordingly, Gerow is cited to teach the argued limitations. In reference to claims 15-18, 27-28, and 33, again the Applicant submits that the combination is improper because there is no particular suggestion from the cited reference. Answers to similar arguments have already been provided above and will not be further discussed. To conclude, the Examiner is content that all the cited references combined meet the claimed limitations. Therefore the rejection stands.